

### **REMARKS**

The Final Office Action mailed March 24, 2010 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

#### **Record of Interview**

On March 31, 2010, an interview was conducted by telephone between Examiner Shanto Abedin and the undersigned. The Applicant thanks the Examiner for granting this interview. The details of the interview are set forth in the Interview Summary document made of record.

#### **Claim Status and Amendment of the Claims**

Claims 1-49 are currently pending.

No claims stand allowed.

Claims 1, 8, 11-13, 18, 21, 23, 30, 33, and 35-37 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. No new matter has been added. Support for the amendments is found in the specification, claims, and figures as originally filed.

The Applicant gratefully acknowledges the indication of allowance of Claims 38-43. The Applicant is further grateful for the indication of allowability of Claims 35-37, subject to their re-writing in independent form including all of the limitations of the base claim and any intervening claims.

#### **The First 35 U.S.C. § 103 Rejection**

Claims 1-34 and 44-49 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Tsuchiya et al.<sup>1</sup> in view of Kameda<sup>2</sup> and further in view of Mao et al.<sup>3 4</sup>

According to the Manual of Patent Examining Procedure (M.P.E.P.),

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.<sup>5</sup>

#### Claim 1

Claim 1 as presently amended recites:

A network access device comprising:  
a plurality of input ports;  
a memory for storing data packets received on the plurality of input ports;  
a switching fabric configured for packet switching of the data packets to at least one output port; and  
control logic adapted to:  
    examine a first data packet comprising a physical address of a user device coupled to one of the plurality of input ports;  
    authenticate the physical address;  
    if the authentication of the physical address indicates the physical address is valid, authenticate one or more user credentials provided in a second data packet by a user of the user device after the physical address is authenticated;  
    if the authentication of the one or more user credentials indicates the one or more user credentials are valid, determine if the network access device has sufficient system resources to dynamically configure a user policy;  
    if the determination indicates the network access device has sufficient system resources, dynamically assign the user policy to the one of the plurality of input ports; and  
    restrict further traffic on the one of the plurality of input ports in accordance with the user policy; and

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<sup>1</sup> U.S. Patent No. 7,360,086 to Tsuchiya et al.

<sup>2</sup> U.S. Publication No. 2003/0028808 to Kameda

<sup>3</sup> U.S. Patent No. 7,302,700 to Mao et al.

<sup>4</sup> Office Action mailed March 24, 2010, at ¶ 8.

<sup>5</sup> M.P.E.P § 2143.

if the authentication of the physical address indicates the physical address is invalid, or if the determination indicates insufficient system resources, block traffic on the one of the plurality of ports except for packets related to a user authentication protocol.

Embodiments of the invention as presently claimed authenticate a user device physical address within a first data packet when the user device is coupled to an input port of a network switch, and only if the physical address authentication succeeds, then authenticates user credentials information in a *second* data packet by a user of the user device. Switch resource and network resource utilization is optimized, as such resources are expended to authenticate a user only after the physical address of the device is determined to be valid.

With this Amendment, independent Claims 1, 13, and 23 have been amended to recite in part determining if the network access device has sufficient system resources to dynamically configure a user policy. Claim 1 has been further amended to recite if the determination indicates the network access device has sufficient system resources, dynamically assigning the user policy to the one of the plurality of input ports. Claim 1 has been further amended to recite if the authentication of the physical address indicates the physical address is invalid, or if the determination indicates insufficient system resources, blocking traffic on the one of the plurality of ports except for packets related to a user authentication protocol. The Applicant notes that this “blocking” step was found in Claims 35-36, which the Examiner indicated would be allowable if rewritten in independent form. As Claims 35, 36, and 37 depend from Claims 1, 13, and 23, respectively, the “blocking” step has been removed from presently amended Claims 35-37.

The present Amendment neither raises a new issue nor requires a new search, since the Examiner has already considered the limitations at issue, such as the “blocking” step referred to above, and other changes are only concerned with formality of the claims.

Support for this Amendment is found in the specification, figures, and claims as originally filed, for example ¶¶ 35-39, 53-55, and 60-62; and FIG. 3 reference numerals 312, 314, 320, and 322. The Applicant respectfully submits the limitations of Claim 1 as presently amended are not disclosed or suggested by the cited art of record.

As the limitations of presently amended Claim 1 are not disclosed or suggested by the cited art of record, the Applicants respectfully submit Claim 1 is allowable over the cited art of record. Accordingly, withdrawal of the 35 U.S.C. § 103 rejection of Claim 1 based on Tsuchiya et al. in view of Kameda and further in view of Mao et al. is respectfully requested.

#### Claims 13 and 23

Claim 13 is a method claim corresponding to apparatus claim 1. Claim 23 is a system claim corresponding to apparatus claim 1. Claim 1 being allowable, Claims 13 and 23 must be allowable for at least the same reasons as Claim 1.

#### Dependent Claims 2-12, 14-22, 24-34, and 44-49

Claims 2-12, 44, and 47 depend from Claim 1. Claims 14-22, 45, and 48 depend from Claim 13. Claims 24-34, 46, and 49 depend from Claim 23. Claims 1, 13, and 23 being allowable, Claims 2-12, 14-22, 24-34, and 44-49 must also be allowable for at least the same reasons as for Claims 1, 13, and 23.

The Second 35 U.S.C. § 103 Rejection

Claims 1, 13, and 23 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sawada et al.<sup>6</sup> in view of Mao et al.<sup>7</sup> With this Amendment, independent Claims 1, 13, and 23 have been amended to recite in part determining if the network access device has sufficient system resources to dynamically configure a user policy. Claims 1, 13, and 23 have been further amended to recite if the determination indicates the network access device has sufficient system resources, dynamically assigning the user policy to the one of the plurality of input ports. Claims 1, 13, and 23 have been further amended to recite if the authentication of the physical address indicates the physical address is invalid, or if the determination indicates insufficient system resources, blocking traffic on the one of the plurality of ports except for packets related to a user authentication protocol. The Applicant notes that this “blocking” step was found in Claims 35-36, which the Examiner indicated would be allowable if rewritten in independent form. As Claims 35, 36, and 37 depend from Claims 1, 13, and 23, respectively, the “blocking” step has been removed from presently amended Claims 35-37.

Additionally, the Applicant notes that the authentication server 401 in Sawada et al. functions as both an authentication server and an authenticator, whereas independent claims 1, 13, and 23 require that the access device perform the authentication. This distinction is shown in FIG. 5 of Sawada et al., which shows a packet 502 addressed to authentication server SV-AUTH 401. LAN switch 101 in Sawada et al. merely forwards the packet 502 to authentication server SV-AUTH 401. As the limitations of presently amended Claims 1, 13, and 23 are not disclosed or suggested by the cited art of record, the Applicants respectfully submit Claims 1, 13, and 23

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<sup>6</sup> U.S. Patent Publication No. 20020016858 to Sawada et al.

<sup>7</sup> Office Action mailed March 24, 2010, at ¶ 9.

are allowable over the cited art of record. Accordingly, withdrawal of the 35 U.S.C. § 103 rejection of Claims 1, 13, and 23 based on Sawada et al. in view of Mao et al. is respectfully requested.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

#### Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

#### Request for Entry of Amendment

Entry of this Amendment will place the Application either in condition for allowance, or at least, in better form for appeal by narrowing any issues. Furthermore, as explained above, the present amendment neither raises a new issue nor requires a new search, since the Examiner has already considered the limitations at issue, and other changes are only concerned with formality of the claims. Accordingly, entry of this Amendment is appropriate and is respectfully requested.

#### Allowable Subject Matter

The Examiner is thanked for the kind allowance of Claims 38-43, and the finding of allowable subject matter in claims 35-37 if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Applicant acknowledges the Examiner's statement of reasons for allowance as set forth in the Office Action. However,

Applicant points out that the reasons for allowability of the above referenced claims are not limited to the reasons for allowance as set forth in the Office Action, and that additional reasons for allowability may exist, each of which may be independently sufficient to establish the patentability of one or more pending claims.

The Applicant respectfully reserves the right to introduce, articulate, or otherwise comment on any such additional reasons for allowance as may be appropriate in any future proceedings concerning the claimed invention.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

The Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-3557.

Respectfully submitted,

NIXON PEABODY LLP

Dated: April 6, 2010

/ John P. Schaub/

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